

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14286 of the Trustees, Harvey Memorial Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use portions of the lower and upper levels of the subject premises as a child development center for thirty-five children and eleven staff in an R-2 District at premises 3204 Brothers Place, S.E., (Square 5990, Lot 808).

HEARING DATE: May 15, 1985

DECISION DATE: May 15, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the southwest corner of the intersection of Esther and Brothers Places, S.E. and is known as premises 3204 Brothers Place, S.E. The site is zoned R-2.

2. The site is basically square in shape with a frontage of 11250 feet along Brothers Place to the north and a frontage of 105 feet along Esther Place to the east.

3. There is a fifteen foot wide public alley along the south edge of the site and a single family dwelling on the lot to the west.

4. The R-2 zoning district extends to the north, east and west of the site. There is a C-2-A district to the south and an R-4 district approximately 300 feet to the southwest.

5. The subject site is improved with a one story and basement structure housing the Harvey Memorial Baptist Church.

6. The applicants are now operating a child development center, affiliated with the church, on the site without a valid certificate of occupancy or license from the Department of Consumer and Regulatory Affairs (DCRA). The applicants now seek a special exception to lawfully operate a center for thirty-five children and eleven staff members.

7. Paragraph 3101.41 provides that the Board may approve the requested relief in accordance with the following requirements:

- A. The center shall be capable of meeting all applicable code and licensing requirements.
 - B. The center shall be so located and designed as to create no objectionable traffic condition and no unsafe condition for picking-up and dropping-off children.
 - C. The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.
 - D. The center, including any outdoor play space provided, is so located and designed that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it shall deem necessary to protect adjacent and nearby properties.
 - E. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.
 - F. The Board may approve more than one child development center in a square or within 1,000 feet of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise operations or other similar factors.
 - G. Before taking final action on an application, the Board shall submit the application to the Departments of Consumer and Regulatory Affairs (DCRA) and Public Works and the Office of Planning for review and written reports. The referral to the DCRA shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District of Columbia.
8. The subject facility will utilize the basement which can be used as an indoor play space, kitchen space and a bathroom area. Two rooms of the upper level will be used as classrooms.
9. The center proposes to operate from 7:00 A.M. to 6:00 P.M., Monday through Friday. Breakfast is served

between 8:00 A.M. and 8:30 A.M. and lunch is served between 11:30 A.M. and 12:00 Noon.

10. Trash is picked up from the parking lot every Monday.

11. There are no other child development centers within 1,000 feet of the subject site.

12. No off-site play area has been specifically designated as yet, nor is such an area required under the Zoning Regulations.

13. The Service Facility Regulation Administration of the DCRA, by memorandum filed March 25, 1985, reported that the subject facility could meet all licensing requirements as set forth in the Child Development Facilities Regulation 74-34 and D.C. Law 2-98 when all deficiencies have been corrected.

14. The Department of Public Works (DPW), by memorandum dated March 7, 1985, reported as to the transportation system at or near the subject site. Brothers Place is a one-way westbound local street with a paved width of twenty-four feet. Parking is unrestricted on Brothers Place. Esther Place is a one-way northbound local street with a paved width of twenty-four feet. Parking is unrestricted on the east side of the street, while on the west side, no parking is allowed. Waclark Place is a local street with a paved width of twenty-four feet. Parking is unrestricted on Waclark place. Martin Luther King, Jr., Avenue is a minor arterial with a paved width of fifty feet and an average daily traffic volume of 21,000 vehicles. Parking is unrestricted, except in a bus loading zone and near the entrance of a fire station located on the north side of the street. The DPW further reported that the site is served directly by Metrobus routes A1, A2, A3, A4, A6, A8, V3 and V7 along Martin Luther King, Jr., Avenue.

15. The Department of Public Works further reported that there is a parking lot with eighteen spaces at the rear of the church which is available for use by the child development center. The Zoning Regulations require three parking spaces. The parking lot adequately meets this requirement. The DPW suggested that the required parking spaces be clearly delineated as reserved for use by center personnel.

16. The DPW noted that vehicular access to the church/center parking lot can be made from either Brothers place or from an east-west alley off Esther Place. To minimize the traffic impact of the center's operation, the DPW suggested that vehicles utilize the alley entrance. In addition, DPW recommended that any parking for the purpose

of discharging or picking up of children be done in the church/center parking lot. In the DPW's estimation, operation of this child development center will not have a significant effect on the surrounding street system. The Board concurs with the reasoning and recommendations of the Department of Public Works.

17. At the public hearing, the Office of Planning reported that it had been advised by DCRA that, in the past, the subject child development center has had an occupancy of fifty children and that the center should be licensed for no more than thirty-five children.

18. In its report dated May 8, 1985, the Office of Planning recommended approval of the subject application with the following conditions:

- A. That the Department of Consumer and Regulatory Affairs determine that the applicant is in full compliance with all its regulations;
- B. That the applicant plant and maintain a landscape area of evergreens all along the western boundary of the parking area to minimize the impact of noise and pollution on the single family dwelling at the adjacent site, and
- C. That the approval be for a period of two years only, due to the history of the applicant's non-compliance with the zoning and licensing regulations.

It was the opinion of OP that, if the above conditions were met, the applicant would meet the requirements of Paragraph 3101.41. The Board concurs with the reasoning and recommendation of the OP.

18. Advisory Neighborhood Commission 8C made no recommendation on the subject application.

19. There was no opposition to the granting of the requested relief at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception the granting of which requires that the proposal meet the requirements of Paragraph 3101.41 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met its burden of proof. The proposed use, as conditioned below in this grant of the application, is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The use will not have an adverse affect on the use of neighboring property. ACCORDINGLY, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of TWO YEARS from the date of this order.
- B. Enrollment shall be limited to a maximum of thirty-five children. The maximum number of staff shall be eleven.
- C. The hours of operation shall not exceed from 7:00 A.M. to 6:00 P.M., Monday through Friday.
- D. A minimum of three parking spaces shall be designated for the exclusive use of the child development center during its hours of operation.
- E. All drop-off and pick up of children shall occur in the parking area.
- F. The applicant shall plant and maintain in a healthy, growing condition, evergreen landscaping along the southern property line to buffer the use of the parking area from the adjacent single family dwelling.
- G. The facility shall be brought into full compliance with the licensing requirements of the D.C. Department of Consumer and Regulatory Affairs.

VOTE: 3-0 (Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris and Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

29 JUL 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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